

**MENTAL HEALTH CODE (EXCERPT)**  
**Act 258 of 1974**

**ADMISSION BY PETITION**

**330.1433 Assisted outpatient treatment; petition; filing; hearing; court order to receive treatment; appeal.**

Sec. 433. (1) Any individual 18 years of age or over may file a petition with the court that asserts that an individual meets the criteria for assisted outpatient treatment specified in section 401(d). The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, the name and address of the mental health professional currently providing care to the individual who is the subject of the petition, if known, and the name and address of the nearest relative or guardian, if known, or, if none, a friend, if known, of the individual who is the subject of the petition.

(2) Upon receipt of a petition, the court shall inform the subject of the petition and the community mental health services program serving the community in which the subject of the petition resides that the court shall hold a hearing to determine whether the subject of the petition meets the criteria for assisted outpatient treatment. Notice shall be provided as set forth in section 453. The hearing shall be governed by sections 454 and 458 to 465.

(3) If in the hearing, the court verifies that the subject of the petition meets the criteria for assisted outpatient treatment and he or she is not scheduled to begin a course of outpatient mental health treatment that includes case management services or assertive community treatment team services, the court shall order the subject of the petition to receive assisted outpatient treatment through his or her local community mental health services program. The order shall include case management services. The order may include 1 or more of the following:

- (a) Medication.
- (b) Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medications.
- (c) Individual or group therapy.
- (d) Day or partial day programs.
- (e) Educational and vocational training.
- (f) Supervised living.
- (g) Assertive community treatment team services.
- (h) Alcohol or substance abuse treatment, or both.

(i) Alcohol or substance abuse testing, or both, for individuals with a history of alcohol or substance abuse and for whom that testing is necessary to prevent a deterioration of their condition. A court order for alcohol or substance abuse testing shall be subject to review every 6 months.

(j) Any other services prescribed to treat the individual's mental illness and to either assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(4) To fulfill the requirements of an assisted outpatient treatment plan, the court's order may specify the service role that a publicly-funded entity other than the community mental health services program shall take.

(5) In developing an order under this section, the court shall consider any preferences and medication experiences reported by the subject of the petition or his or her designated representative, whether or not the subject of the petition has an existing individual plan of services under section 712, and any directions included in a durable power of attorney or advance directive that exists. If the subject of the petition has not previously designated a patient advocate or executed an advance directive, the responsible community mental health services program shall, before the expiration of the assisted outpatient treatment order, ascertain whether the subject of the petition desires to establish an advance directive. If so, the community mental health services program shall direct the subject of the petition to the appropriate community resources for assistance in developing an advance directive.

(6) If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

(7) Nothing in this section negates or interferes with an individual's rights to appeal under any other state law or Michigan court rule.

**History:** Add. 2004, Act 497, Eff. Mar. 30, 2005.

### **330.1434 Petition; filing; contents; clinical certificates.**

Sec. 434. (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment as defined in section 401.

(2) The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.

(3) The petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, an affidavit setting forth the reasons an examination could not be secured shall also be filed. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate shall have been executed by a psychiatrist.

(4) Except as otherwise provided in section 455, a clinical certificate that accompanies a petition shall have been executed within 72 hours before the filing of the petition, and after personal examination of the individual.

**History:** 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1435 Examination; order; detention period; transmitting clinical certificate or report to court; third examination report; dismissal of petition.**

Sec. 435. (1) If the petition is accompanied by 1 clinical certificate, the court shall order the individual to be examined by a psychiatrist.

(2) If the petition is not accompanied by a clinical certificate, and if the court is satisfied a reasonable effort was made to secure an examination, the court shall order the individual to be examined by a psychiatrist and either a physician or a licensed psychologist.

(3) The individual may be received and detained at the place of examination as long as necessary to complete the examination or examinations, but not more than 24 hours.

(4) After any examination ordered under this section, the examining physician or licensed psychologist shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted.

(5) If 1 examination was ordered and the examining physician or licensed psychologist reports that execution of a clinical certificate is not warranted, or if 2 examinations were ordered and 1 of the examining physicians or the licensed psychologist reports that execution of a clinical certificate is not warranted, the court shall dismiss the petition or order the individual to be examined by a psychiatrist, or if a psychiatrist is not available, by a physician or licensed psychologist. If a third examination report states that execution of a clinical certificate is not warranted, the court shall dismiss the petition.

**History:** 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1436 Noncompliance with order of examination; protective custody.**

Sec. 436. If it appears to the court that the individual will not comply with an order of examination under section 435, the court may order a peace officer to take the individual into protective custody and transport him or her to a preadmission screening unit or hospital designated by the community mental health services program or to another suitable place for the ordered examination or examinations.

**History:** 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1437 Right to remain in home pending examination; right to return to home; accompaniment by relatives or friends.**

Sec. 437. Unless the individual has been ordered hospitalized pursuant to section 438, he shall be allowed to remain in his home or other place of residence pending an ordered examination or examinations and to return to his home or other place of residence upon completion of the examination or examinations. The individual may be accompanied by one or more of his relatives or friends to the place of examination.

**History:** 1974, Act 258, Eff. Nov. 6, 1974.

### **330.1438 Order of hospitalization; protective custody; transportation; conditions to release after 24 hours.**

Sec. 438. If it appears to the court that the individual requires immediate involuntary mental health treatment in order to prevent physical harm to himself or herself, or others, the court may order the individual

hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission screening unit authorizes hospitalization, the peace officer shall transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the preadmission screening unit. If the examinations and clinical certificates of the psychiatrist, and the physician or the licensed psychologist, are not completed within 24 hours after hospitalization, the individual shall be released.

**History:** 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1439 Cause of action against person filing petition.**

Sec. 439. A cause of action shall not be cognizable in a court of this state against a person who in good faith files a petition under this chapter alleging that an individual is a person requiring treatment, unless the petition is filed as the result of an act or omission amounting to gross negligence or willful and wanton misconduct.

**History:** Add. 1986, Act 118, Eff. Mar. 31, 1987.